Executive Summary

Burundi is still recovering from a civil war, is resource poor, its population suffers from extreme poverty, and many of the recent economic reforms have not been fully implemented. Burundi's landlocked location and infrastructure constraints limit transportation of goods and services. Energy demand significantly exceeds capacity and rolling blackouts are common. Years of civil conflict have created a brain drain. Scarcity of skilled labor limits growth in all sectors. Foreign direct investment in Burundi is extremely low at \$600,000 USD in 2012. The Government of Burundi (GOB) seeks to attract more investors. However, GOB fiscal governance is inexpert, and corruption exists at all levels. Since 2008, members of the executive branch have granted large discretionary exemptions to private foreign companies by presidential decree or ministerial ordinance. These direct government-to-company agreements undermine Burundian tax law and the investment code, doubling down on the benefits that legislation already offers to new investors. The International Monetary Fund (IMF) calculates that total discretionary exemptions in 2013 were roughly equivalent to 1 percent of GDP. In addition to reducing revenues for the state, these exemptions injure private companies already operating in Burundi by granting advantages to select competitors.

Conversely, over the last year both the telecommunications and mining sectors have been subject to large increases in taxation, also by presidential decree or ministerial ordinance, that have reduced profits and discouraged investors. In one case, the revenues from the new tax were kept off-budget by routing to a private bank account managed by a GOB official. Corruption is suspected.

1. Openness To, and Restrictions Upon, Foreign Investment

On paper, Burundi's economy has been liberalized and is open to foreign investors. In practice, corruption hampers many business activities; domestic and foreign.

The GOB official attitude toward foreign direct investment is reflected by the Investment Code adopted in September 2008, which aims to attract and reassure foreign investors. The Code encourages and promises to facilitate acquisitions, as well as the production, transformation, and distribution of goods and services. In August 2009, a series of amendments designed to clarify the somewhat vague provisions of the new Code came into effect. These amendments spell out substantial tax exemptions for real estate purchases related to new investments, tax reductions for goods used to establish new businesses and profit-tax breaks for investors employing more than 50 Burundian workers.

Along with the new code, the government created the Burundian Investment and Promotion Authority (known by its French acronym API). The Authority is professionally and financially independent and is in charge of the development and promotion of investment in Burundi. Currently, its main objectives are not only to inform and assist potential investors, but also ensure that new laws and regulations that benefit investors are being upheld, and promote reforms aimed at improving the business climate. In 2012, API set up a "one-stop" investment center to help facilitate and simplify business registration in Burundi. In the 2014 World Bank Doing Business Report, Burundi had one of the largest improvements in Sub-Saharan Africa, advancing its by nineteen positions over the previous year.

Burundi's legal code recognizes the sanctity of contracts. In case of a dispute involving foreign interests, the plaintiff has the option of referring its complaint to either the national courts or an international arbiter. In 2007, the GOB created a Center for Arbitration and Mediation to handle such disputes; to date no disputes have been submitted to the Center.

There are no established processes or criteria for the screening or review of foreign investments. The GOB has no overall economic or industrial strategies that discriminate against foreign investors, nor are there any general limits on foreign ownership or control of enterprises. There are no statutory limits on foreign ownership or control. However, in practice foreign investors are often asked to include the GOB as shareholders, usually at a minimum of 10 percent. The new **mining** code, promulgated in October 2013, stipulates that the GOB own at least 10 percent of shares in any foreign company with an industrial mining license.

Foreign investments concerning weapons, munitions, and any sort of military or para-military enterprises are restricted. Private investments in this sector are rare, and investments in military enterprises are conducted on a government-to-government basis. No other investment sectors are restricted, nor are there any sectors where foreign investors are denied the same treatment as domestic firms.

The investment code does not distinguish between domestic and foreign investment except for in the military sector. API approves new projects seeking to benefit from the advantages of the investment code. The investment code sets forth no specific bidding criteria for the acquisition of GOB interests by private firms.

There is no explicit discrimination against foreign investors at any stage of the investment process, nor are there any laws or regulations specifically authorizing private firms to adopt articles of incorporation or association which limit or prohibit foreign investment, participation, or control.

TABLE 1: The following chart summarizes several well-regarded indices and rankings.

Measure	Year	Index/Ranking
TI Corruption Index	2013	157 out of 177
Heritage Economic Freedom	2013	141 out of 178

World Bank Doing Business	2014	140 out of 183
MCC Gov't Effectiveness	2014	-0.41 (22%)
MCC Rule of Law	2014	-0.19 (36%)
MCC Control of Corruption	2014	-0.55 (4%)
MCC Fiscal Policy	2014	-3.8 (36%)
MCC Trade Policy	2014	71.8 (62%)
MCC Regulatory Quality	2014	-0.21 (36%)
MCC Business Start Up	2014	0.966 (92%)
MCC Land Rights Access	2014	0.77 (92%)
MCC Natural Resource Protection	2014	30.3 (40%)
MCC Access to Credit	2014	14 (13%)
MCC Inflation	2014	11.8 (21%)

TABLE 1B - Scorecards: The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a 2012 per capita gross national income (GNI) or \$4,085 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC's indicators and a guide to reading the scorecards, are available here: http://www.mcc.gov/documents/reports/reference-2013001142401-fy14-guide-to-the-indicators.pdf

2. Conversion and Transfer Policies

There are no restrictions on converting or transferring funds associated with an investment into a freely usable currency at a legal market rate. The new Investment Code allows completely free access to foreign exchange for investment remittances. There are no regulatory barriers to obtaining foreign exchange, but availability of foreign currency within Burundi's Central Bank is limited, since the Bank is not accustomed to accommodating large international transactions. The Central Bank maintains a reserve equivalent to four months of imports, and prioritizes withdrawals for importers of essential staple items, including medicines, agricultural products and fuel.

The average delay for remitting investment returns, once all taxes have been paid, is three months. These delays are caused by general inefficiency in the banking sector and the rarity of such transactions in an environment with very little foreign direct investment. There is no mechanism allowing investors to remit funds through a legal parallel market using convertible negotiable instruments. There is no stated legal limit on the inflow or outflow of funds for remittances of profits, debt service, capital, capital gains, returns on intellectual property, or imported inputs.

3. Expropriation and Compensation

Burundian law permits the GOB to expropriate property for "exceptional and state-approved reasons" but stipulates that "a just and prior compensatory allowance is required." In practice, there are no recent cases involving expropriation of foreign investments, nor do any foreign firms have pending complaints about compensation. In case such disputes did arise, the investment code offers plaintiffs recourse to the national court system or international arbitration.

The new **mining** code (2013) does not specifically mention expropriation because the holder of the operating license does not have any property rights over his perimeter of activity. However, it does stipulate that any foreign company can be forced to withdraw at any stage of exploitation, without indemnity or compensation, due to violations of the **mining** code. Foreign investors in the **mining** sector have expressed concerns about the vague wording of this clause, as it does not specify at what level a violation would merit forced withdrawal. One investor postulated that without further specificity, employee infractions of the health and safety code (ie. not wearing a helmet) could prompt forced withdrawal. This clause has so far not been enforced.

4. Dispute Settlement

There are few United States' companies invested in Burundi. Two are currently engaged in commercial disputes and report concerns their cases are not being processed in accordance with local and international business law, as well as concerns that corruption is impeding the judicial process. There has only been one other commercial dispute involving a U.S. company in recent years. It was resolved relatively quickly.

Burundi's legal system contains standard provisions guaranteeing the right to private property and the enforcement of contracts. Burundi has a written and consistently applied commercial law which allows for the judgments of foreign courts to be accepted and enforced by local courts. Monetary judgments are usually made in the investor's currency. A bankruptcy law granting equal rights to foreign and domestic creditors exists, but has not been effectively publicized or enforced. The GOB has been known to impede judicial procedures in cases with political or human rights overtones.

In rare cases involving international elements the GOB accepts binding international arbitration, and recognizes and enforces foreign arbitral awards. In investment disputes between private parties, international arbitration is accepted as a means of settlement provided one of the parties is an extra-national. In 2007, the GOB created a Center for Arbitration and Mediation to handle such disputes; to date, the Center has heard no cases. Although the GOB has enacted no specific legislation for the enforcement of the World Bank's International Center for Settlement of Investment Disputes (ICSID) decisions, it is a member of the ICSID and enforces its awards.

5. Performance Requirements and Investment Incentives

The GOB has not notified the World Trade Organization (WTO) of any measures that are inconsistent with the WTO's Trade Related Investment Measures (TRIMs), nor have there been any independent allegations that the GOB maintains any such measures.

There are no established performance requirements for foreign investors, and tax incentives apply uniformly to both domestic and foreign firms. In theory, all new investors qualify for tax deferral based on the rate, duration and nature of their investments. The standard incentive offered to potential large investors, foreign or domestic, is one or more years of tax-free operation. Amendments to the investment code adopted in August 2009 include exemption of charges for real estate purchases related to new investments, tax exemptions for goods used to establish new businesses, and profit-tax breaks for investors employing more than 50 Burundian workers. Further, the investment code provides free transfer of foreign assets and income after payment of taxes due. API and the Burundian Revenue Authority (known by its French acronym OBR) are working together to review existing exemptions to ensure they are consistent with excise law, the investment code, and make sure that the tax exemptions are in harmony with those of the East African Community of which it is a member.

The GOB imposes no performance requirements on investors as a condition for establishing, maintaining, or expanding their investments, or for access to tax and investment incentives. There are no requirements that investors purchase from local sources or export a certain percentage of their output, or only have access to foreign exchange in relation to their exports. There is no overall requirement that nationals own shares in foreign investments, that the share of foreign equity be reduced over time, or that technology be transferred on certain terms.

The GOB imposes no "offset" requirements linking major procurements to investments in specified sectors of the national economy. There are also no government-imposed conditions on permission to invest related to geographic location, percentage of local content, local equity, employment of nationals, use of domestic employment agencies, import substitution, export targets, technology transfer, or local funding sources. There are no specified performance requirements and therefore no enforcement procedures for same.

There is no foreign direct investment in the research sector. The only known scientific research being conducted in Burundi concerns agricultural production and is largely funded by foreign donors, including the U.S.

There are no discriminatory or excessively onerous visa, residence, or work permit requirements that inhibit foreign investors' mobility, nor does the GOB have any discriminatory or preferential export-import policies affecting foreign investors.

6. Right to Private Ownership and Establishment

Foreign and domestic private entities have the right to establish and own business enterprises and engage in all forms of remunerative activity permitted by Burundian law. Private entities may freely establish, acquire and dispose of interests in business enterprises.

7. Protection of Property Rights

Secured interests in both real and movable property are nominally recognized under Burundian law. The legal system in general and the investment code in particular claim to protect and facilitate the acquisition and disposition of all property rights. The law also guarantees adequate protection for such intellectual property as patents, copyrights and trademarks but contains no provisions about trade secrets or semiconductor chips. However, beginning in 2012 there have been a number of cases arbitrated by the National Commission for Land and Other Possessions (known as its French acronym CNTB) which have resulted in restoration of property to returning refugees reportedly without compensation being granted to the current property owner. So far, this situation has not affected foreign investors.

Like most WTO members, Burundi has adopted the 1995 agreement on Trade-Related Aspects of International Property Rights (TRIPS), which introduced global minimum standards for the protection and enforcement of virtually all intellectual property rights (IPR). In practice, a subsistence-level economy like Burundi's has little to do with IPR issues. The only relevant area where TRIPS applies is the protection of pharmaceutical products, most of which are imported and distributed under the auspices of international donors in full compliance with WTO regulations. Burundi is also a signatory to the 1997 and 2000 UN World Intellectual Property Organization (WIPO) treaties governing industrial property and patent law.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Embassy point of contact: Helena (Ulrika) Joyce JoyceHU@state.gov

Local lawyers list link: http://photos.state.gov/libraries/burundi/231771/PDFs/lawyer-list.pdf

8. Transparency of the Regulatory System

The government has no stated, transparent policies for fostering competition or establishing a regulatory framework. Before the GOB enacts laws concerning investment policy, private consultants generally publish a study on the draft legislation for review and comment by the private sector. Comments are then submitted for consideration by the GOB before the legislation is voted upon. This procedure was followed during the drafting of the investment code.

Starting in 2008 but more frequently since the beginning of 2013, the GOB has granted large discretionary exemptions to select private investors by way of ministerial ordinance and

presidential decree. The International Monetary Fund (IMF) estimates that total discretionary exemptions in 2013 were roughly equivalent to 1 percent of GDP. These exemptions double down on benefits already granted to new investors by tax law or the investment code, and undermine basic principles of competition by giving significant advantages to some investors that others do not receive.

Legislatively, Burundi's regulatory and accounting systems are intended to be transparent and consistent with international norms. In practice the judicial system is overwhelmed with cases; extremely long wait times undermine its efficacy. In addition, there is a lack of transparency in court proceedings which contribute to an overall culture of impunity. The GOB's legal system is often subject to judicial roadblocks in cases pertaining to politics and human rights.

9. Efficient Capital Markets and Portfolio Investment

GOB policies facilitate the free flow of financial resources in the product and factor markets. In theory, foreign investors have access to all existing credit instruments. There are no explicit restrictions on foreign investors' access to local credit, but the local market's own credit resources are extremely limited. Given this lack of resources, there is no regulatory system to encourage and facilitate portfolio investment. Foreign technical experts including U.S. Treasury are assisting Burundi's Central Bank (known by its French acronym BRB) in developing such a regulatory system and establishing a more active bond market. Although financial markets are small, they are highly liquid and could potentially permit the movement of large amounts of capital.

According to their latest annual reports (2012), the total assets of Burundi's three largest commercial banks are: Interbank Burundi (IBB), 193.7 million USD; Burundi Credit Bank (BCB), 191.6 million USD; and Burundi Commercial Bank (BANCOBU), 101.8 million USD. On average, approximately 10 percent of the three banks' total asset base is non-performing, which indicates a relatively stable banking environment. The formal banking sector mainly serves Burundi's small elite of upper income business people and government officials, as well as its miniscule middle class, composed mostly of civil servants. The majority of Burundians has no access to formal credit and relies on micro-finance institutions that dispense commercially-negligible amounts. At this point, hedging against currency risk using Burundi's commercial banking system is not possible.

There are no arrangements by private firms that restrict foreign investment through mergers and acquisitions. Private firms also have no specific mechanisms or written strategies to prevent hostile takeovers, since these would only be relevant in a more developed economy. The private sector has limited access to credit locally as the credit market is not developed.

10. Competition from State-Owned Enterprises (SOEs)

Private enterprises are allowed to compete with public enterprises under the same terms and conditions with respect to access to markets, credit, and other business operations, such as licenses and supplies. SOEs in Burundi are mainly active in the agricultural sector: coffee, tea, sugar, cotton, and palm oil. Burundi's coffee industry was opened for privatization in 2009 and the Webcor company bought the first 13 washing stations in 2010. Local investors bought 28 others in 2011. The bidding process was non-discriminatory and transparent.

SOEs are also present in the telecom and utility industries. The SOE **information & communication** company (ONATEL) offers landline, mobile and internet services. The SOE **energy** and water (REGIDESO) company is the sole producer and distributor of electricity and potable water.

Corporate governance of SOEs is structured from the top down, with a government minister in charge, a Board of Directors, and a General Manager. The management reports directly to the Board of Directors, whose decisions must be approved by the minister within 15 days to be valid. The minister may overrule any decision made by the Board if the minister considers it to be "against the general interest" – a catch-all phrase that allows the minister to have the last word in any dispute. SOEs are required to prepare annual reports but do not routinely submit to independent audits.

There are no sovereign wealth funds (SWF) in Burundi.

11. Corporate Social Responsibility

CSR is not widely practiced in Burundi. According to the investment code, any new enterprise is required to take into account environmental issues and employee rights in its investment/business plan. However, no accurate information is available on the maintenance and enforcement of domestic laws with respect to labor and employment rights, consumer protections and environmental protections. There are no corporate governance, accounting, or executive compensation standards in place to protect the interests of shareholders.

There is no general awareness of corporate social responsibility among producers or consumers. The national brewery, Brarudi, which is managed and predominantly owned by the Dutch company Heineken, follows such principles as the OECD Guidelines for Multinational Enterprises. Since 2002, Brarudi has introduced programs to conserve water and electricity usage while reducing industrial waste; the company has also donated construction materials for schools and equipment for local NGOs.

Leo, Burundi's largest **information & communications** services provider, spent \$250,000 USD in 2013 on interventions in the education sector, largely building schools and providing school desks. The company helped 2,000 orphans to pay secondary school fees, and is planning to expand to university level scholarships in the future. Econet, Burundi's second largest

information & communications services provider, has set up a scholarship program to send gifted orphans to study at international universities.

In the **mining** sector, the new **mining** code (October 2013) requires investors' commitment to infrastructure development, socio-economic contributions, and the welfare of their personnel. It also requires the protection of the environment in general and the rehabilitation of exploited sites in particular. Article 141 of the **mining** code states that the holder of a **mining** license must provide the Ministry of Mines with an annual activity report detailing the impact of **mining** operations undertaken on the environment and measures taken to address them.

12. Political Violence

There have been no incidents in recent memory involving politically-motivated damage to foreign investors' projects or installations. Even before the outbreak of ethnic violence in 1993, there was no significant foreign direct investment in Burundi. Though there were democratic elections in 2010 and the last rebel group demobilized in 2006, the security situation remains tenuous throughout Burundi. Political space for opposition, civil society and the media continues to diminish in the run-up to the 2015 presidential elections. Banditry and extortion by armed criminals, some of whom are reported to have links to political parties -- as well as a general climate of lawlessness and impunity -- continue to discourage foreign investment. All visitors to Burundi are urged to exercise extreme caution and avoid nighttime travel outside the capital.

The security situation throughout the region is volatile, particularly in neighboring eastern Democratic Republic of Congo (DRC) and northwestern Uganda. While these conflicts currently pose little direct threat to Burundi's security, they increase instability and tension in the region. Additionally, the recent influx of refugees from eastern DRC, and returning refugees from Tanzania may strain Burundi's limited resources.

13. Corruption

Officially, Burundi has a number of laws and regulations prohibiting corrupt practices such as bribery, nepotism, preferential hiring and promotion and embezzlement. In practice, these measures are rarely enforced. There is no evidence of any particular bias for or against foreign investors in the enforcement of these statutes; money appears consistently to be the key motivating factor.

Burundi is a signatory to the UN Anti-Corruption Convention and the OECD Convention on Combating Bribery. Burundi has also been a member of the East African Anti-Corruption Authority since joining the East African Community in 2007. To date, no foreign firms have lodged complaints against the GOB under any of these agreements. Two U.S. firms have specifically noted corruption as an obstacle to direct investment in Burundi, and corruption is

seen as one of the typical hurdles to be overcome when doing business in the country and region. Corruption is pervasive at all levels of the government, including the executive. Customs officials are also reportedly corrupt, regularly extorting bribes from exporters and importers. The creation of the Burundi Revenue Authority (OBR) in 2010 and the recruitment of a foreign manager as its Commissioner General has greatly reduced this form of corruption.

Giving or receiving bribes, including a bribe by a local company to a foreign official, is technically a criminal act punishable by six months to ten years in prison depending on the scale of the financial interests involved. The GOB's Anti-Corruption Brigade is charged with enforcing this legislation, but has very limited jurisdiction. Cabinet members, parliamentarians, and anyone appointed by presidential decree have immunity from prosecution on corruption charges, insulating them from accountability and feeding a culture of impunity. Despite the August 2010 presidential announcement of a zero tolerance policy for corruption, there has been little progress in rooting out corruption. The most frequent whistleblower on corruption is a civil society organization called Organization for the Struggle Against Corruption and Public Funds Embezzlement (OLUCOME), which frequently denounces abuses in the public sector.

14. Bilateral Investment Agreements

Burundi has a long-standing mutual investment agreement with the BENELUX nations. Although Burundi is technically eligible to take part in the African Growth and Opportunities Act (AGOA), there has been no significant activity in this area, nor does the GOB have any bilateral investment or taxation treaties with the U.S. However, in November 2012 the United States signed a Commercial Dialogue with the EAC with the goals of promoting more trade and investment in key sectors, building a more open and predictable business climate, and strengthening ties between businesses in the EAC and the United States.

15. OPIC and Other Investment Insurance Programs

Burundi is a member of the Multilateral Investment Guarantee Agency, and signed an agreement with the Overseas Private Investment Corporation (OPIC) in 2006. To date, there are no OPIC-affiliated enterprises now known to be in operation. In the unlikely event that OPIC would need to pay an inconvertibility claim, it would use Burundian Francs (BIF), which, as of April 2014, U.S. Embassy Bujumbura purchased at an official rate of 1550 BIF to one USD. After significant depreciation of the Burundian Franc in early 2013, the Burundian central bank began maintaining the exchange rate through a managed float. It has remained relatively stable since February 28, 2013. Given the overall weakness of Burundi's economy, there is significant risk that the value of the BIF will continue to depreciate against major market currencies should the managed float be lifted.

16. Labor

Unskilled local labor is widely available. Workers from neighboring countries (DRC, Rwanda and Uganda) often supplement a local economy generally lacking skilled labor. Burundi has signed the International Labor Organization (ILO) convention protecting workers' rights. In the private sector, labor-management relations are generally conducted according to international standards that allow for collective bargaining and freedom from reprisal against employees who engage in union activities. Labor leaders in the public sector have occasionally been subjected to harassment and arbitrary detention. There are no stated policies that would allow differential treatment of labor or require the hiring of host country nationals for certain positions. A largely uneducated workforce cannot be said to impede the use of advanced technologies, given that the level of development in most sectors is already hampered by extreme poverty and lack of access to basic utilities.

17. Foreign Trade Zones/Free Ports

Burundi now has no designated foreign trade zones or free ports. In theory the new Investment Code makes the entire country a de facto foreign trade zone, but the language of the Code itself has few details concerning specific policies and procedures.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

It is challenging to track Foreign Direct Investment (FDI) in Burundi, as no FDI survey has ever been completed. API's figures do not separate FDI from domestic investment, but give some relevant information: According to API, since its inception three years ago 193 investment projects have been approved, worth 824 billion Burundian Francs (BIF) (about \$588 million USD), and a large percentage of the projects have already been launched. The most targeted sectors are tourism, energy, agribusiness, transportation and some light assembly plants. Foreign investors are mostly from the East African Community, India and China. According to the International Monetary Fund, FDI in 2012 amounted to only \$600,000 USD. FDI figures for 2013 are not yet available. The following figures are from the IMF.

Year	Foreign Direct Investment
2011	\$3.4 million USD
2012	\$0.6 million USD
2013	No figures yet available

TABLE 2: Key Macroeconomic data, U.S. FDI in host country/economy

	Host (Statist source	tical	USG or		ce	USG or international Source of data (Source of Data: BEA; IMF; Eurostat; UNCTAD, Other)
Economic Data	Year	Amount	Year		Amount	
Host Country Gross Domestic Product (GDP) (Millions U.S. Dollars)		2421.61 [Source: Burundi Central Bank]	2012		\$2421.61 [source: World Bank]	http://www.worldbank.org/en/country World Bank
_	Statis	tical	USG or interna statistical sourc		ce	USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (Millions U.S. Dollars, stock positions)	Insert	Amount	2012	(betwee and +\$:	ero value en -\$500 000 500 000 :: BEA]	 (BEA) click selections to reach. Bureau of Economic Analysis Balance of Payments and Direct Investment Position Data U.S. Direct Investment Position Abroad on a Historical-Cost Basis By Country only (all countries) (Millions of Dollars)

Host country's FDI in the United States (Millions U.S. Dollars, stock positions)	Insert (Year) N/A		(Year) N/A	Amount N/A	 (BEA) click selections to reach Balance of Payments and Direct Investment Position Data Foreign Direct Investment Position in the United States on a Historical-Cost Basis By Country only (all countries) (Millions of Dollars)
Total inbound FDI	N/A	N/A	2012	\$600,000 [source: IMF]	
Total inbound stock of FDI as % host GDP (calculate)	Insert (Year)	Amount	(Year) 2012	Amount 0.02% [source, Burundi Central Bank & IMF]	

^{*} Provide sources of host country statistical data used.

TABLE 3: Sources and Destination of FDI

Information not available.

TABLE 4: Sources of Portfolio Investment

Information not available.

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